

SENATE BILL 3271
By Harper

AN ACT to amend Tennessee Code Annotated, Title 29, Chapter 34 and Title 53, relative to the "Good Samaritan Drug and Medical Supply Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 34, is amended by adding the following as a new section:

Section _____. (a) This section may be cited as the "Good Samaritan Drug and Medical Supply Donation Act".

(b) As used in this section, unless the context requires otherwise:

(1) "Donate" means to give without requiring anything of significant monetary value from the recipient. The term shall include giving by a nonprofit organization to another nonprofit organization where the donor organization has charged a nominal fee to the donee organization, and distribution by a nonprofit organization to an ultimate recipient who has been required to pay a nominal fee to the nonprofit organization.

(2) "Drug" means:

(A) any article recognized in the official United States Pharmacopoeia, or the official National Formulary, or any supplement thereto;

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(B) any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in man; or

(C) any article other than food intended to affect the structure or any function of the human body; but does not mean medical supply as defined in this subsection.

(3) “Gross negligence” means voluntary and conscious conduct by a person with knowledge, at the time of the conduct, that the conduct is harmful to the health or well-being of another person.

(4) “Intentional misconduct” means conduct by a person with knowledge, at the time of the conduct, that the conduct is harmful to the health or well-being of another person.

(5) “Medical supply” means any instrument, apparatus, implement, contrivance, implant, in vitro reagent, or other similar or related article including any component, part, or accessory, which is:

(A) recognized in the official National Formulary, or the official United States Pharmacopeia, or any supplement thereto;

(B) intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease in humans; or

(C) intended to affect the structure of any function of the human body, and which does not achieve any of its principal intended purposes through chemical action within or on the human body and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

(6) “Nonprofit organization” means an incorporated or unincorporated entity that:

(A) is operating for religious charitable or educational purposes;
and

(B) does not provide net earnings to, or operate in any other manner that inures to the benefit of, any officer, employee, or shareholder of the entity. As used in this paragraph, earning shall not include employee compensation.

(7) "Person" means an individual, corporation, partnership, organization, association, or governmental entity, including but not limited to a drug manufacturer, medical supply manufacturer, retail pharmacy, hospital pharmacy, wholesaler, clinic, physician, nurse, hospital, dentist, outpatient health facility, nursing home, home health care entity, or nonprofit drug or medical supply distributor. In the case of a corporation, partnership, organization, association, or governmental entity, the term includes an officer, director, partner, deacon, elder, pastor, rabbi, trustee, council member, or other elected or appointed individual responsible for the governance of the entity.

(c) A person shall not be subject to any civil or criminal liability arising from the nature, age, packaging, or condition of drugs or medical supplies that the person donates in good faith to a nonprofit organization for ultimate distribution to needy individuals, except that this paragraph shall not apply to an injury to or death of an ultimate user or recipient of the drug or medical supply that results from an act or omission of the donor constituting gross negligence or intentional misconduct.

(d) If some or all of the donated drugs or medical supplies do not meet all quality and labeling standards imposed by federal, state, and local laws and regulations, the person who donates the drug or medical supply shall not be subject to civil or criminal liability in accordance with this subsection if the nonprofit organization that receives the donated drug or medical supply:

(1) is informed by the donor of the distressed or defective condition of the donated drug or medical supply;

(2) agrees to take the necessary measures to comply with all relevant quality standards imposed by federal, state, and local laws and regulations prior to distribution of the donated drug or medical supply; and

(3) is made knowledgeable as to the quality standards applicable to the donated drug or medical supply under federal, state, and local laws and regulations.

(e) This act shall not be construed to create any liability.

SECTION 2. This act shall take effect July 1, 1998, the public welfare requiring it.